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ABSTRACT

This draft report describes the Rhode Island state plan to implement Section 772(e) of the Stewart B. McKinney Homeless Assistance Act (the McKinney Act) under Title VII, Subtitle B of the Act, which provides for education for homeless children and youth. The plan addresses the following issues: (1) school placement; (2) dispute resolution; (3) assurances of compliance; and (4) enrollment based on the student's best interests. School placement in Rhode Island is a local school district determination. Disputes over residency are resolved by the State Commissioner of Education, who can issue interim orders during the pendency of any matter. Continued school attendance in the district of original residence is being addressed through two bills in the 1989 legislative session, and assurance is made of the provision of comparable services for which eligibility requirements are met, and the maintenance and availability of school records. Criteria for "best interest" determinations will be developed in conjunction with the proposed legislation. The following legal and legislative materials are appended: (1) the McKinney Act in full; (2) Rhode Island state law on compulsory school attendance; (3) state law on residence of children for school purposes; (4) state legislation relating to residency; and (5) state legislation on the implementation of the McKinney Act. (AF)

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THE RHODE ISLAND STATE PLAN FOR EDUCATION

HOMELESS CHILDREN AND YOUTH

March 1989

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STATE PLAN

TO IMPLEMENT SECTION 722(e), HOMELESS ASSISTANCE ACT

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INTRODUCTION

The Rhode Island State Plan for Education of Homeless Children and Youth has been developed pursuant to the Stewart B. McKinney Homeless Assistance Act, P.L.100-77, Title VII - Subtitle B - Education for Homeless Children and Youth.

The Plan addresses the required issues of: (1) determination regarding school placement, (2) procedures for the resolution of disputes, (3) assurances of local educational agency compliance, provision of comparable services for which the child meets the eligibility criteria, and maintenance and availability of school records.

Included in the Appendix are copies of the Rhode Island General Laws pertaining to compulsory attendance (Chapter 19) and school residency (Chapter 64). Also included are copies of proposed state (new) legislation to address McKinney requirements and a copy of the McKinney Homeless Assistance Act.

STATE PLAN

Section 722 (e) Stewart B. McKinney Homeless Assistance Act, P.L. 100-77.

§722 (e) (1) (A) - Determination of School Placement.

The determination of school placement of every child or youth is a local school district determination made pursuant to Rhode Island General Laws, §16-64, "Residence of Children for School Purposes."

§722 (e) (1) (B) - Resolution of Disputes Regarding Educational Placement.

Disputes over residency are resolved by the State Commissioner of Education under §16-64-6. Under §16-64-6 the Commissioner also has the power to issue interim orders to insure a child receives education during the pendency of any matter. (See Appendix for full text of Title 16, Chapter 64, "Residency for School Purposes" and Title 16, Chapter 19, "Compulsory Attendance").

§722 (e) (2) and (3-6) - Assurance of Compliance.

At present, Rhode Island law does not provide the option (§722(e) 3 (A) and (B)) to allow a child to continue to attend school in the district of original residence. However, the Department has introduced two (2) bills in the 1989 legislative session to enable us to promulgate appropriate rules to meet this requirement. (Copies of both bills appear in the Appendix).

The first bill (#89-S-549) will allow students to complete a semester in the original town of residence, or if the student is in or entering his or her senior year, to complete the entire year.

This Act will apply to all Rhode Island students, including students who are homeless, and will not diminish any additional rights of any person covered by the McKinney Act. (See Appendix for full text of the legislative proposal).

The second piece of proposed legislation (#89-S-560) authorizes the Commissioner to promulgate rules to implement the educational provisions of the McKinney Homeless Assistance Act. (See Appendix for full text of legislation).

To the extent practicable under state law, we assure that LEAs will comply with the provisions of §§(3-6), including school placement decisions; provision of comparable services for which the child meets the eligibility criteria; and maintenance and availability of school records.

§722 (e) (3-4) - Enrollment Based on the Child's or Youth's Best Interests.

The SEA will develop regulations pursuant to the proposed legislation (#89-S-560) to implement §§(3-4). The legislative regulations thus developed will have the force and effect of law. A "best interest" determination will be required. Criteria will be developed to form the basis for the determination.

As noted earlier, under current law our Commissioner has the power to issue such interim orders as may be needed to insure that a child receives education during the pendency of any matter. (§16-64-6).

APPENDIX A

Subtitle B—Education for Homeless Children and Youth

SEC. 721. STATEMENT OF POLICY. 42 USC 11431.

It is the policy of the Congress that—

(1) each State educational agency shall assure that each child of a homeless individual and each homeless youth have access to a free, appropriate public education which would be provided to the children of a resident of a State and is consistent with the State school attendance laws; and

(2) in any State that has a residency requirement as a component of its compulsory school attendance laws, the State will review and undertake steps to revise such laws to assure that the children of homeless individuals and homeless youth are afforded a free and appropriate public education.

SEC. 722. GRANTS FOR STATE ACTIVITIES FOR THE EDUCATION OF HOMELESS CHILDREN AND YOUTH. 42 USC 11432.

(a) GENERAL AUTHORITY.—The Secretary of Education is, in accordance with the provisions of this section, authorized to make grants to States to carry out the activities described in subsections (c), (d), and (e).

(b) ALLOCATION.—From the amounts appropriated for each fiscal year pursuant to subsection (g), the Secretary shall allot to each State an amount which bears the same ratio to the amount appropriated in each such year as the amount allocated under section 111

of the Elementary and Secondary Education Act of 1965 (as incorporated by reference in chapter 1 of the Education Consolidation and Improvement Act of 1981) to the local educational agencies in the State in that year bears to the total amount allocated to such agencies in all States, except that no State shall receive less than $50,000 in any fiscal year.

20 USC 3801 note.

(c) AUTHORIZED ACTIVITIES.—Grants under this section shall be used—

(1) to carry out the policies set forth in section 721 in the State;

(2) to establish or designate an Office of Coordinator of Education of Homeless Children and Youth in accordance with subsection (d); and

Office of Coordinator of Education of Homeless Children and Youth, establishment.

(3) to prepare and carry out the State plan described in subsection (e).

(d) FUNCTIONS OF THE OFFICE OF COORDINATOR.—The Coordinator of Education of Homeless Children and Youth established in each State shall—

Schools and colleges.

(1) gather data on the number and location of homeless children and youth in the State, and such data gathering shall include the nature and extent of problems of access to, and placement of, homeless children and homeless youth in elementary and secondary schools, and the difficulties in identifying the special needs of such children;

(2) develop and carry out the State plan described in subsection (e); and

Reports.

(3) prepare and submit to the Secretary an interim report not later than December 31, 1987, and a final report not later than December 31, 1988, on the data gathered pursuant to paragraph (1).

To the extent that reliable current data is available in the State, each coordinator described in this subsection may use such data to fulfill the requirements of paragraph (1).

(e) STATE PLAN.—

(1) Each State shall adopt a plan to provide for the education of each homeless child or homeless youth within the State which will contain provisions designed to—

(A) authorize the State educational agency, the local educational agency, the parent or guardian of the homeless child, the homeless youth, or the applicable social worker to make the determinations required under this section; and

(B) provide procedures for the resolution of disputes regarding the educational placement of homeless children and youth.

(2) Each plan adopted under this subsection shall assure, to the extent practicable under requirements relating to education established by State law, that local educational agencies within the State will comply with the requirements of paragraphs (3) through (6).

(3) The local educational agency of each homeless child or youth shall either—

(A) continue the child's or youth's education in the school district of origin for the remainder of the school year; or

(B) enroll the child or youth in the school district where the child or youth is actually living;

whichever is in the child's best interest or the youth's best interest.

(4) The choice regarding placement shall be made regardless of whether the child or youth is living with the homeless parents or has been temporarily placed elsewhere by the parents.

(5) Each homeless child shall be provided services comparable to services offered to other students in the school selected according to the provisions of paragraph (3), including educational services for which the child meets the eligibility criteria, such as compensatory educational programs for the disadvantaged, and educational programs for the handicapped and for students with limited English proficiency; programs in vocational education; programs for the gifted and talented; and school meals programs.

(6) The school records of each homeless child or youth shall be maintained— Records.

(A) so that the records are available, in a timely fashion, when a child or youth enters a new school district; and

(B) in a manner consistent with section 438 of the General Education Provisions Act. 20 USC 1232g

(f) APPLICATION.—No State may receive a grant under this section unless the State educational agency submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(g) AUTHORIZATION OF APPROPRIATIONS.—

(1) There are authorized to be appropriated $5,000,000 for each of the fiscal years 1987 and 1988 to carry out the provisions of this section.

(2) Sums appropriated in each fiscal year shall remain available for the succeeding fiscal year.

SEC. 723. EXEMPLARY GRANTS AND DISSEMINATION OF INFORMATION ACTIVITIES AUTHORIZED. 42 USC 11433

(a) GENERAL AUTHORITY.—

(1) The Secretary shall, from funds appropriated pursuant to subsection (f), make grants for exemplary programs that successfully address the needs of homeless students in elementary and secondary schools of the applicant.

(2) The Secretary shall, in accordance with subsection (e), conduct dissemination activities of exemplary programs designed to meet the educational needs of homeless elementary and secondary school students.

(b) APPLICANTS.—The Secretary shall make grants to State and local educational agencies for the purpose described in paragraph (1) of subsection (a).

(c) ELIGIBILITY FOR GRANTS.—No applicant may receive an exemplary grant under this section unless the applicant is located in a State which has submitted a State plan in accordance with the provisions of section 722.

(d) APPLICATION.—Each applicant which desires to receive a demonstration grant under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require. Each such application shall include—

(1) a description of the exemplary program for which assistance is sought;

(2) assurances that the applicant will transmit information with respect to the conduct of the program for which assistance is sought; and

(3) such additional assurances that the Secretary determines are necessary.

(e) DISSEMINATION OF INFORMATION ACTIVITIES.—The Secretary shall, from funds appropriated pursuant to subsection (f), conduct, directly or indirectly by way of grant, contract, or other arrangement, dissemination activities designed to inform State and local educational agencies of exemplary programs which successfully address the special needs of homeless students.

(f) APPROPRIATIONS AUTHORIZED.—There is authorized to be appropriated $2,500,000 for fiscal year 1988 to carry out the provisions of this section.

Reports.
42 USC 11434.

SEC. 724. NATIONAL RESPONSIBILITIES.

(a) GENERAL ACCOUNTING OFFICE.—The Comptroller General of the United States shall prepare and submit to the Congress not later than June 30, 1988, a report on the number of homeless children and youth in all States.

(b) SECRETARIAL RESPONSIBILITIES.—

(1) The Secretary shall monitor and review compliance with the provisions of this subtitle in accordance with the provisions of the General Education Provisions Act.

(2) The Secretary shall prepare and submit a report to the Congress on the programs and activities authorized by this subtitle at the end of each fiscal year.

(3) The Secretary shall compile and submit a report to the Congress containing the information received from the States pursuant to section 722(d)(3) within 45 days of its receipt.

42 USC 11435.

SEC. 725. DEFINITIONS.

As used in this subtitle—

(1) the term "Secretary" means the Secretary of Education; and

(2) the term "State" means each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

APPENDIX B

CHAPTER 19

COMPULSORY ATTENDANCE

SECTION.

16-19-1. Attendance required — Excuses for nonattendance.

16-19-2. Approval of private schools — Requirements — Review.

16-19-3. Appointment and compensation of truant officers — Supplies and assistance — Joint officers — Tenure.

16-19-4. Prosecution of violations — Process — Fees.

SECTION.

16-19-5. Inspection and reports of places of employment of minors — Work certificates.

16-19-6. Proceedings against habitual truants and offenders.

16-19-7. Disposition of fines.

16-19-8. Jurisdiction of family court.

16-19-9. Immunity from liability for costs.

16-19-10. Notification of pupil absence.

16-19-1. Attendance required — Excuses for nonattendance. — Every child who has completed six (6) years of life and has not completed sixteen (16) years of life shall regularly attend some public day school during all the days and hours that the public schools are in session in the city or town wherein the child resides; and every person having under his or her control a child as above described in this section shall cause the child to attend school as required by the above stated provisions of this section, and for every neglect of this duty the person having control of the child shall be fined not exceeding fifty dollars ($50.00) for each day or part of a day that the child fails to attend school, and if the total of these days is more than thirty (30) school days during any school year, then the person shall, upon conviction, be imprisoned not exceeding six (6) months or shall be fined not more than five hundred dollars ($500) or both; provided, that if the person so charged shall prove that the child has attended for the required period of time a private day school approved by the commissioner of elementary and secondary education pursuant to § 16-60-6(10), or a course of at-home instruction approved by the school committee of the town wherein the child resides; or that the physical or mental condition of the child was such as to render his or her attendance at school inexpedient or

impracticable; or that the child was excluded from school by virtue of some general law or regulation — then attendance shall not be obligatory nor shall the penalty be incurred; but nothing in this section shall be construed to allow the absence or irregular attendance of any child who is enrolled as a member of any school, or of any child sent to school by the person having control of the child.

Nothing in this section shall be deemed to limit or otherwise interfere with the rights of teachers and other school employees to collectively bargain pursuant to chapters 9.3 and 9.4 of title 28 or to allow any school committee to abrogate any agreement reached by collective bargaining.

History of Section.

G.L. 1896, ch. 64, § 1; P.L. 1902, ch. 1009, § 1; G.L. 1909, ch. 72, § 1; P.L. 1917, ch. 1492, § 1; P.L. 1922, ch. 2234, § 14; G.L. 1923, ch. 76, § 1; P.L. 1923, ch. 482, § 1; P.L. 1925, ch. 678, § 3; P.L. 1926, ch. 812, § 1; P.L. 1936, ch. 2360, § 1; P.L. 1937, ch. 2505, § 1; G.L. 1938, ch. 181, § 1; G.L. 1956, § 16-19-1; P.L. 1984, ch. 345, § 1; P.L. 1988, ch. 642, § 4.

Reenactments. The 1988 Reenactment (P.L. 1988, ch. 84, § 1) made several substitutions for the word "such" and several minor stylistic changes throughout the section.

Compiler's Notes. This section as it appears above has been edited by the compiler to incorporate the changes made by the 1988 reenactment of title 16 by P.L. 1988, ch. 84, which were not included in the 1988 amendment. For the extent of the 1988 reenactment changes, see the reenactment note above.

In 1988, "shall," was inserted preceding "upon conviction", a semicolon was inserted preceding "provided that", and "commissioner of elementary and secondary education" was substituted for "commissioner of education" near the middle of the section by the compiler.

Cross References. Attendance required of persons who do not speak English, § 16-29-7.

Deaf child, duty of parent or guardian to send to school, § 16-26-8.

Comparative Legislation. Attendance:

Conn. Gen. Stat. §§ 10-184 — 10-202d.

Mass. Ann. Laws ch. 76, §§ 1-20.

Collateral References. Applicability of compulsory attendance law covering children of a specified age, with respect to a child who has passed the anniversary date of such age. 73 A.L.R.2d 874.

Extent of legislative power with respect to attendance. 39 A.L.R. 477; 53 A.L.R. 832.

Mandamus to compel enrollment or reinstatement of student. 39 A.L.R. 1019.

Releasing public school pupils from attendance for purpose of attending religious education classes. 2 A.L.R.2d 1371.

Religious belief of parents as defense to prosecution for failure to comply with compulsory education law. 3 A.L.R.2d 1401.

AIDS infection as affecting right to attend public school. 60 A.L.R.4th 15.

Conditions at school as excusing or justifying nonattendance. 9 A.L.R.4th 122.

16-19-2. Approval of private schools — Requirements — Review. — For the purposes of this chapter a private school, or at-home instruction, shall be approved, only when it complies with the following requirements, namely: that the period of attendance of the pupils in the school or in the home instruction is substantially equal to that required by law in public schools; that registers are kept and returns to the school committee, the superintendent of schools, truant officers, and the department of elementary and secondary education in relation to the attendance of pupils, are made the same as by the public schools; that reading, writing, geography, arithmetic, the history of the United States, the history of Rhode Island, and the principles of American government shall be taught in the English language substantially to the same extent as these subjects are required to be taught in the public schools, and that the teaching of the English language and of other subjects indicated herein shall be thorough and efficient; provided, however, that nothing herein contained shall be construed or operate to deny the right to teach in private schools or in at-home instruction any of the subjects or any other subject in any other language in addition to the teaching in English as prescribed herein; provided, further, that any interested person

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resident in any city or town aggrieved by the action of the school committee of the city or town either in approving or refusing to approve at-home instruction may appeal therefrom to the department of elementary and secondary education. The department of elementary and secondary education, after notice to the parties interested of the time and place of hearing, shall examine and decide the same without cost to the parties. The commissioner shall also grant a hearing to any party aggrieved by a refusal to approve a private school pursuant to § 16-60-6(10). The decision of the board of regents for elementary and secondary education shall if an appeal is made to the board be final.

History of Section.
G.L., ch. 76, § 8; P.L. 1925, ch. 678, § 4; G.L. 1938, ch. 181, § 8; G.L. 1956, § 16-19-2; P.L. 1984, ch. 345, § 1.

Reenactments. The 1981 Reenactment (P.L. 1981, ch. 300) made a substitution for a department reference.

The 1988 Reenactment (P.L. 1988, ch. 84, § 1) inserted "elementary and secondary" preceding "education" near the beginning and near the end of the first sentence and in the second sentence; substituted "The commissioner" for "The commission" at the beginning of the next-to-last sentence; substituted "board of regents for elementary and secondary education" for "board of education" in the last sentence; and made several substitutions for the words "said" and "such" and several minor stylistic changes throughout the section.

Cross References. Curriculum in public schools, §§ 16-22-1 — 16-22-18.

Private schools generally, §§ 16-40-1 — 16-40-16.

Collateral References. What constitutes a private, parochial, or denominational school within statute making attendance at such school a compliance with compulsory school attendance law, 65 A.L.R.3d 1222.

16-19-3. Appointment and compensation of truant officers — Supplies and assistance — Joint officers — Tenure. — The school committee of each city or town shall annually in the month of December appoint one or more persons as truant officers, who shall by virtue of their appointment be clothed with the power of special constables, and fix their compensation, which shall be payable from the appropriation for public schools. The school committee may also furnish all necessary supplies and clerical assistance for the proper and efficient performance of the duties of the truant officer. The school committee of two (2) or more cities or towns may appoint the same truant officer or officers, and any school committee that appoints other employees on a different tenure of office than annual appointments may appoint truant officers on a similar tenure in lieu of the annual appointment above mentioned in this section and may fix their compensation from time to time.

History of Section.
G.L. 1896, ch. 64, § 3; P.L. 1901, ch. 924, § 1; P.L. 1902, ch. 1009, § 1; G.L. 1909, ch. 72, § 3; G.L. 1923, ch. 76, § 2; G.L. 1938, ch. 181, § 2; impl. am. P.L. 1946, ch. 1775, § 2; G.L. 1956, § 16-19-3.

Reenactments. The 1988 Reenactment (P.L. 1988, ch. 84, § 1) substituted "their appointment" for "said appointment" in the first sentence, and made a stylistic change and a punctuation change in the last sentence.

16-19-4. Prosecution of violations — Process — Fees. — The truant officers shall, under the direction of the school committee, inquire into all cases arising under the provisions of this chapter, and shall alone be authorized, in case of violation of any of the provisions of this chapter, to make complaint therefor; they may also serve all legal processes issued in pursuance of this chapter, but shall not be entitled to receive any fees for the service; provided, however, that in case of the commitment of any person under the provisions of any section of this chapter, or for default of payment of any fine and costs imposed thereunder, the officer shall be entitled to the regular fees allowed by law for similar service.

History of Section.
G.L. 1896, ch. 64, § 3; P.L. 1901, ch. 924, § 1; P.L. 1902, ch. 1009, § 1; G.L. 1909, ch. 72, § 3; G.L. 1923, ch. 76, § 2; G.L. 1938, ch. 181, § 2; G.L. 1956, § 16-19-4.

Reenactments. The 1988 Reenactment (P.L. 1988, ch. 84, § 1) made several substitutions for the words "said" and "such" throughout the section, and made a punctuation change near the middle of the section.

Cross References. Americanization schools, attendance requirement, § 16-29-10.

Collateral References. Truant or attendance officer's liability for assault and battery or false imprisonment. 62 A.L.R.2d 1328.

16-19-5. Inspection and reports of places of employment of minors — Work certificates. — Truant officers and industrial inspectors may visit any places or establishments where minor children are employed to ascertain whether the provisions of this chapter are duly complied with, and may as often as twice in every year demand from all employers of minor children a report containing the names of all children who have not completed sixteen (16) years of life that are employed by them, the report to give the names, ages, and residences of all these children; and all employers of children under sixteen (16) years of age shall produce for the inspection of truant officers and industrial inspectors the permits to work prescribed by chapter 3 of title 28; and for any refusal to make such reports as are above provided for, or for any refusal to produce the above-mentioned permits to work, any employer of children shall be fined not exceeding ten dollars ($10.00).

History of Section.
G.L. 1896, ch. 64, §§ 7-9; P.L. 1902, ch. 1009, § 1; G.L. 1909, ch. 72, § 4; G.L. 1923, ch. 76, § 3; P.L. 1936, ch. 2360, § 2; G.L. 1938, ch. 181, § 3; G.L. 1956, § 16-19-5.

Reenactments. The 1988 Reenactment (P.L. 1988, ch. 84, § 1) made several substitutions for the word "such" throughout the section.

Cross References. Employment of children, §§ 28-3-1 — 28-3-32.

Collateral References. Constitutionality of child labor laws. 12 A.L.R. 1216; 21 A.L.R. 1437.

16-19-6. Proceedings against habitual truants and offenders. — Every habitual truant, that is, every child who is required under § 16-19-1 to attend school and who wilfully and habitually absents himself therefrom; and every habitual school offender, that is, every child who is required to attend school under the provision of § 16-19-1, but who persistently violates the rules and

regulations of the school which he or she attends, or otherwise persistently misbehaves therein, so as to render him or herself a fit subject for exclusion therefrom; shall be deemed a wayward child as provided in chapter 1 of title 14, and shall be subject to all the provisions of chapter 1 of title 14, and may be proceeded against and dealt with as a wayward child in accordance with the provisions of chapter 1 of title 14.

History of Section.
G.L. 1896, ch. 64, §§ 8, 12, 13; P.L. 1902, ch. 1009, § 1; G.L. 1909, ch. 72, § 5; P.L. 1922, ch. 2210, § 1; G.L. 1923, ch. 76, § 4; P.L. 1923, ch. 449, § 1; P.L. 1926, ch. 840, § 1; G.L. 1938, ch. 181, § 4; G.L. 1956, § 16-19-6.

Reenactments. The 1988 Reenactment (P.L. 1988, ch. 84, § 1) made a punctuation change near the end of the section.

Cross References. Truants defined as wayward, § 14-1-3(5).

Collateral References. Truant or attendance officer's liability for assault and battery or false imprisonment, 62 A.L.R.2d 1328.

16-19-7. Disposition of fines. — All fines under the provisions of §§ 16-19-1 and 16-19-5 shall inure and be applied to the support of the public schools in the city or town where the offense was committed.

History of Section.
G.L. 1896, ch. 64, §§ 9, 15; P.L. 1902, ch. 1009, § 1; G.L. 1909, ch. 72, § 6; G.L. 1923, ch. 76, § 5; P.L. 1926, ch. 840, § 2; G.L. 1938, ch. 181, § 5; G.L. 1956, § 16-19-7.

16-19-8. Jurisdiction of family court. — (a) The family court of the state shall have jurisdiction in all cases arising under § 16-19-1.

(b) The family court shall also have authority to issue such equitable orders, enforcible through contempt of court proceedings, as may be needed to enforce § 16-19-1. As an alternative to the procedure set-out in § 16-19-1, the school committee may file a civil complaint seeking injunctive relief in truancy cases. If the family court rules in favor of the school committee the court may issue an injunction, enforceable through contempt of court proceedings, requiring compliance with the compulsory attendance law. Neither prior resort to enforcement proceedings under § 16-19-1 nor a showing of irreparable injury shall be prerequisite to injunctive relief under this section.

History of Section.
G.L. 1896, ch. 64, §§ 10, 16; P.L. 1902, ch. 1009, § 1; G.L. 1909, ch. 72, § 7; G.L. 1923, ch. 76, § 6; G.L. 1938, ch. 181, § 6; impl. am. P.L. 1944, ch. 1441, § 14; G.L. 1956, § 16-19-8; P.L. 1969, ch. 239, § 31; P.L. 1984, ch. 345, § 1.

Reenactments. The 1988 Reenactment (P.L. 1988, ch. 84, § 1) substituted the catchline "Jurisdiction of family court" for former catchline "Jurisdiction of courts", assigned subsection designations; and substituted "proceedings" for "proceeding" near the end of subsection (b).

16-19-9. Immunity from liability for costs. — No officer complaining under any of the provisions of this chapter shall be required to give surety for costs; and the officer shall not in any way become liable for any costs that may accrue on the complaint.

History of Section.
G.L. 1896, ch. 64, §§ 11, 17; P.L. 1902, ch. 1009, § 1; G.L. 1909, ch. 72, § 8; G.L. 1923, ch. 76, § 7; G.L. 1938, ch. 181, § 7; G.L. 1956, § 16-19-9.

Reenactments. The 1988 Reenactment (P.L. 1988, ch. 84, § 1) substituted "the officer" for "such officer", "any way" for "anywise", and "the complaint" for "such complaint".

16-19-10. Notification of pupil absence. — (a) Whenever any pupil in grades kindergarten through nine (9) fails to report to school on a regularly scheduled school day and no indication has been received by school personnel that the pupil's parent or guardian is aware of the pupil's absence, a reasonable effort to notify, by telephone, the parent or guardian shall be made by school personnel or volunteers organized by the school committee of each city, town, or regional school district or the director or other person in charge of private schools of elementary and secondary grades.

(b) School committees, school personnel, or volunteers organized pursuant to this section shall be immune from any civil or criminal liability in connection with the notice to parents of a pupil's absence or failure to give the notice required by this section.

History of Section.
P.L. 1987, ch. 428, § 1.

Reenactments. The 1988 Reenactment (P.L. 1988, ch. 84, § 1) assigned subsection designations; substituted "the notice" for "such notice" in subsection (b); and made several minor stylistic changes throughout the section.

CHAPTER 64

RESIDENCE OF CHILDREN FOR SCHOOL PURPOSES

SECTION.
16-64-1. Residency of children for school purposes.
16-64-2. Retention of residence.
16-64-3. Burden of proof.
16-64-4. Effect of guardianship.
16-64-5. Children under care and control of state agency.
16-64-6. Disputes over residency — Determination proceedings.
16-64-7. Pupil records — Transfer and access.

16-64-1. Residency of children for school purposes. — Except as otherwise provided by law or by agreement a child shall be enrolled in the school system of the town wherein he or she resides. A child shall be deemed to be a resident of the town where his or her parents reside. If the child's parents reside in different towns the child shall be deemed to be a resident of the town in which the parent having actual custody of the child resides. In cases where a child has no living parents, has been abandoned by his or her parents, or when parents are unable to care for their child on account of parental illness or family break-up, the child shall be deemed to be a resident of the town where the child lives with his or her legal guardian, natural guardian, or other person acting in loco parentis to the child. An emancipated minor shall be deemed to be a resident of the town wherein he or she lives. Children placed in group homes,

in foster care, in child caring facilities, or by a Rhode Island state agency or a Rhode Island licensed child-placing agency shall be deemed to be residents of the town where the group home, child caring facility, or foster home is located, and this town shall be reimbursed or the child's education be paid for in accordance with § 16-7-20. In all other cases a child's residence shall be determined in accordance with the applicable rules of the common law. Where a child is a resident in a dwelling which lies in more than one municipality, the parent(s) or guardian shall choose which school district the child shall attend without payment of costs as tuition.

History of Section.
P.L. 1982, ch. 367, § 1; P.L. 1987, ch. 169, § 1.

Reenactments. The 1988 Reenactment (P.L. 1988, ch. 84, § 1) made a minor punctuation change.

Compiler's Notes. As enacted by P.L. 1982, ch. 367, § 1, this section contained a heading which read "Residence of children for school purposes."

16-64-2. Retention of residence. — A child shall be eligible to receive education from the town in which the child's residence has been established until his or her residence has been established in another town and that town has enrolled the child within its school system, unless the commissioner of elementary and secondary education, pursuant to § 16-64-6, has ordered otherwise. Nothing contained herein shall be construed to prohibit a town in its own discretion from enrolling a child within its school system before a child has established technical residency within the town.

History of Section.
P.L. 1982, ch. 367, § 1.

Reenactments. The 1988 Reenactment (P.L. 1988, ch. 84, § 1) substituted "commissioner of elementary and secondary education" for "commissioner of education" near the end of the first sentence.

16-64-3. Burden of proof. — In any proceeding where it is alleged that a child's residence has been changed due to illness of a parent, the break-up of the child's family, abandonment of the child by his or her parents, death of the child's parents, or emancipation of the child, the party alleging the existence of these circumstances shall have the burden of proof and shall make proof by a preponderance of the evidence.

History of Section.
P.L. 1982, ch. 367, § 1.

Reenactments. The 1988 Reenactment (P.L. 1988, ch. 84, § 1) substituted "these circumstances" for "such circumstances" and "make proof" for "make such proof" near the end of the section.

16-64-4. Effect of guardianship. — The appointment of a guardian of the person of a child pursuant to § 33-15-1 et seq. shall not operate to change a child's residence unless the child takes up residence with the guardian and unless the guardian has been appointed for a substantial reason other than to change the child's

residence for the purpose of enrolling the child in another school system.

History of Section.
P.L. 1982, ch. 367, § 1

Reenactments. The 1988 Reenactment (P.L. 1988, ch. 84, § 1) substituted "enrolling the child" for "enrolling such a child" near the end of the section, and made a minor punctuation change.

Compiler's Notes. As enacted by P.L. 1982, ch. 367, § 1, this section contained a heading which read "Residence based on guardianship."

16-64-5. Children under care and control of state agency. — In cases where the director of a Rhode Island state agency considers it likely that a child under his or her care and control will be subject to a short term placement or series of short term placements the director may petition the commissioner of education to designate the child's original town of residence as having continuing responsibility for the child's education. Such a designation shall be effective for period not greater than two (2) months unless an extension is granted by the commissioner. Nothing contained herein shall be construed to prohibit any school system from providing transportation for the child without charge. Disputes under this section including disputes relating to transportation shall be resolved in accordance with § 16-64-6.

History of Section.
P.L. 1982, ch. 367, § 1.

Reenactments. The 1988 Reenactment (P.L. 1988, ch. 84, § 1) substituted "the child" for "such a child" near the end of the third sentence.

Compiler's Notes. As enacted by P.L. 1982, ch. 367, § 1, this section contained a heading which read "Educational stability for children placed under the care and control of the state."

16-64-6. Disputes over residency — Determination proceedings. — When a school district or a state agency charged with educating children denies that it is responsible for educating a child on the grounds that the child is not a resident of the school district or that the child is not the educational responsibility of the state agency, the dispute shall, on the motion of any party to the dispute, be resolved by the commissioner of elementary and secondary education or the commissioner's designee who shall hold a hearing and determine the issue. At any hearing, all parties in interest shall have the right to a notice of the hearing and an opportunity to present evidence and argument on their own behalf. A hearing under § 16-39-2 shall not be a prerequisite to a hearing under this section. The commissioner of education shall have power to issue such interim orders pending a hearing as may be needed to insure that a child receives education during the pendency of any matter. Interim orders and all final orders shall be enforceable in the superior court for Providence County at the request of any interested party and shall be subject to review in the superior court in accordance with the Rhode Island Administrative Procedures Act, § 42-35-1 et seq.

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History of Section.
P.L. 1982, ch. 367, § 1.

Reenactments. The 1988 Reenactment (P.L. 1988, ch. 84, § 1) substituted "commissioner of elementary and secondary education" for "commissioner of education" near the end of the first sentence; inserted ", § 42-35-1 et seq." at the end of the last sentence; made several substitutions for the word "such"; and made a minor capitalization change.

Compiler's Notes. As enacted by P.L. 1982, ch. 367, § 1, this section contained a heading which read "Determination of a child's residence."

16-64-7. Pupil records — Transfer and access. — Whenever the family court enters an order pursuant to the provisions of § 33-15-1.1 vesting the right to control a child's education with the department for children and their families, that department shall be empowered to authorize and direct the transfer of public school pupil records pertaining to the child when the child is moved to a new city or town through action of the department for children and their families.

History of Section.
P.L. 1985, ch. 71, § 1.

Reenactments. The 1988 Reenactment (P.L. 1988, ch. 84, § 1) substituted "the child" for "said child" following "records pertaining to" near the end of the section

APPENDIX D

89 -- 549

DL1611

89-S 549

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 1989

AN ACT

RELATING TO EDUCATION -- RESIDENCY

Introduced By: Senators Patterson, Mathieu

Date Introduced: February 7, 1989

Referred To: Committee on Health, Education and Welfare

It is enacted by the General Assembly as follows:

SECTION 1. CHAPTER 16-64 OF THE GENERAL LAWS ENTITLED "RESIDENCE OF CHILDREN FOR SCHOOL PURPOSES" IS HEREBY AMENDED BY ADDING THERETO THE FOLLOWING SECTION:

16-64-8. Completion of semester of school year. -- Whenever a student changes his or her city or town of residence during the course of a school semester the student shall be allowed to complete that semester in his or her original town of residence. If the student is a senior or about to enter his or her senior year the student shall be allowed to complete his or her senior year in his or her original town of residence. No school district shall be required to provide transportation to any student exercising the options permitted by this section, and school district shall require a student to exercise the options provided for in this section. No provision of this section shall be construed to diminish the rights of any person covered by the McKinney Homeless Assistance Act, (United States P.L. 100-77-July 22, 1987).

SECTION 2. This act shall take effect upon passage.

DL1611

EXPLANATION

BY THE LEGISLATIVE COUNCIL

OF

AN ACT

RELATING TO EDUCATION -- RESIDENCY

***

This act allows students to complete the semester or senior year in his or her original town of residence, despite a change in town or city of actual residence.

The act would take effect upon passage.

2

APPENDIX E

89 -- S-560

ES1674

89-S 560

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 1989

AN ACT

RELATING TO EDUCATION -- MC KINNEY HOMELESS ACT

Introduced By: Senators Patterson & Mathieu

Date Introduced: February 7, 1989

Referred To: Senate HEW Committee

It is enacted by the General Assembly as follows:

SECTION 1. Section 16-64-2 of the General Laws in Chapter 16-64 entitled "Residence of Children for School Purposes" is hereby amended to read as follows:

16-64-2. Retention of residence -- A child shall be eligible to receive education from the town in which his residence has been established until his residence has been established in another town and that town has enrolled the child within its school system, unless the commissioner of elementary and secondary education, pursuant to section 16-64-6, has ordered otherwise. Nothing contained herein shall be construed to prohibit a town in its own discretion from enrolling a child within its school system before a child has established technical residency within the town. The commissioner of education shall promulgate such rules as may be needed to implement the educational provisions of the Stewart B. McKinney Homeless Assistance Act (P.L. 100-77-July 22, 1987).

SECTION 2. This act shall take effect upon passage.

ES1674

EXPLANATION

BY THE LEGISLATIVE COUNCIL

OF

AN ACT

RELATING TO EDUCATION -- MC KINNEY HOMELESS ACT

***

This act allows the commissioner of education to promulgate rules to implement the Federal McKinney Homeless Assistance Act.

This act would take effect upon passage.

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